IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24874 of 2004

Between:

Pidathala Musalaiah, S/o China Galaiah,
Ramanareddypalem (V), Mundlamur Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional Officer, Kandukur, Prakasam District
3 The Mandal Revenue Officer, Mundlamur, Mundlamur Mandal, Prakasam District.
4 Rayapudi Pitchaiah, S/o Dass,
R/o Tallur Village and Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, in the nature of Writ of Mandamus, declaring the inaction of the Joint Collector, Prakasam District, Ongole in failing to pass orders staying the operation of the orders of the Revenue Divisional Officer, Kandukur, dated 11-12-2004 in D.Dis/2438/2004 in the appeal filed on 20-12-2004 by the petitioner herein as illegal and unjust.

Counsel for the Petitioner: MR.I.GOPAL REDDY

Counsel for Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner, the fourth respondent and five others applied in response to the notification issued by the second respondent for appointment of a fair price shop dealer for Ramanareddypalem village of Mundlamur mandal, Prakasam district. Through proceedings dated 11.12.2004, the second respondent selected the fourth respondent. The petitioner preferred an appeal before the first respondent, against the same. He also filed an application for grant of stay.

Learned counsel for the petitioner submits that the fourth respondent is not a resident of Ramanareddypalem village, as is evident from the Voters' list for the village of Tallur, and, in fact, the wife of the fourth respondent, by name, Suvartha was disqualified on the ground that she is a resident of Tallur. He contends that this ground was sufficient for the first respondent to have stayed the operation of the impugned order.

Learned Government Pleader for Civil Supplies, on the other hand, submits that it is only after the appellate authority calls for the record that an appropriate order can be passed and not as an interim measure.

If the point urged by the learned counsel for the petitioner is true, it certainly goes to the root of the matter. From a reading of the impugned order itself, it is evident that the fourth respondent was treated as a resident of Ramanareddypalem village, whereas his wife was treated as a resident of Tallur village. This discrepancy needs to be examined, after verifying the records and giving an opportunity to the fourth respondent. This Court is not inclined to stay the operation of the order of appointment, at this stage.

Hence, this writ petition is disposed of directing the first respondent to pass appropriate orders in the appeal itself within six weeks from the date of receipt of a copy of this order, duly issuing notice to the fourth respondent and after verifying the record. There shall be no order as to costs.

30.12.2004

Note:

Issue CC in two days.

(BO)

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To

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional Officer, Kandukur, Prakasam District
3 The Mandal Revenue Officer, Mundlamur, Mundlamur Mandal, Prakasam District.
4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

5 Two C.D. Copies.